

HOUSE BILL REPORT

SSB 5839

As Passed House:

April 8, 2009

Title: An act relating to the administration of irrigation districts.

Brief Description: Regarding the administration of irrigation districts.

Sponsors: Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Schoesler, Hatfield and Shin).

Brief History:

Committee Activity:

Local Government & Housing: 3/19/09, 3/26/09 [DP].

Floor Activity

Passed House: 4/8/09, 98-0.

Brief Summary of Substitute Bill

- Authorizes an irrigation district (district) to enter into contracts or participate in joint ventures with other specified public and private entities for the purpose of developing or participating in electrical energy projects.
- Authorizes a district to enter into a contract with the federal government for the transfer to a district of the operation and maintenance of federal reclamation project works, but such contract does not allow for the imputation of negligence to the district for any design or construction defects, or other deficiencies in the transferred works.
- Establishes that the compensation of a district director is fixed at \$90 for each day, or portion thereof, spent in attendance at official meetings of the district or in the performance of other official services or duties on behalf of the district.
- Requires that a local government provide specified notice to a district of any subdivision platting application that includes property lying within the irrigation district and authorizes the district to impose conditions of approval related to public safety or the structural integrity of district facilities.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 11 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Hinkle, Miloscia, Short, Springer, Upthegrove, White and Williams.

Staff: Thamas Osborn (786-7129)

Background:

Overview of Irrigation Districts.

An irrigation district (district) is a type of special purpose district with broad statutory authorization to engage in a wide range of activities and provide a myriad services, including those relating to:

- irrigation facilities and services;
- drainage systems;
- domestic water supplies;
- electric energy generation, purchasing, and distribution;
- sewerage systems;
- fire hydrants;
- street lighting; and
- energy conservation.

Districts are governed by an elected board of directors (board). Directors are entitled to receive compensation for attending meetings and performing other district services. The amount of such compensation is determined by the resolution of the board and may not exceed \$90 per day.

A district is authorized to enter into contracts with the federal government with respect to matters relating to federal reclamation projects. Such contracts must be consistent with pertinent federal reclamation laws.

Irrigation Districts and Local Governmental Approval of Subdivisions and Plats.

A property owner must have a proposed division of land reviewed and approved by the county, city, or town in which the land is located. Such divisions of land are generally categorized as either "subdivisions" or "short subdivisions." Subdivisions are defined as land divisions resulting in five or more lots, tracts, or parcels. Short subdivisions are defined as land divisions resulting in four or fewer lots, tracts, or parcels.

A "plat" is a map or graphic representation of a *subdivision* that shows the division of a tract or parcel of land into lots, blocks, streets, alleys, and other divisions. A "short plat" is the map or graphic representation of a *short subdivision*. The initial step in the process of having a subdivision or short subdivision approved begins with the submission of a preliminary plat (for a subdivision) or a preliminary short plat (for a short subdivision) to the local planning authority for approval. The final step in the approval process involves the submission of the final plat or final short plat to the local planning authority.

If any part of an area included in a proposed subdivision or short subdivision lies within a district, the local planning authority cannot approve a platting application unless an irrigation right-of-way has been provided for each parcel of land located within the district. In certain cases, the district board may require the provision of irrigation water distribution facilities as a condition of plat approval.

Summary of Bill:

Subdivision Approval Process: Notice Provisions and District Conditions.

If any part of an area included in a platting application for a proposed subdivision lies within a district, the local planning authority must provide notice to the district. This notice must include a legal description of the subdivision and map showing its location. Following the receipt of such notice, the district must provide the local planning authority with any information or conditions for approval that the district deems necessary or pertinent regarding:

- the proposed subdivisions effect on the structural integrity of irrigation district facilities;
- potential risk exposures; and
- other information pertinent to the safety of the public and/or the irrigation district.

Per Diem Compensation of District Director.

The compensation of a district director is fixed at \$90 for each day, or portion thereof, spent in attendance at official meetings of the district or in the performance of other official services or duties on behalf of the district.

District Liability and Federal Contracts Regarding Reclamation Projects.

A district is authorized to enter into a contract with the federal government for the transfer of the operation and maintenance of federal reclamation project works to a district. However, such a contract does not allow for the imputation of negligence to the district for any design or construction defects, or other deficiencies in the transferred works.

Contractual Authority for Electrical Energy Projects.

Subject to specified conditions, a district is explicitly authorized to enter into contracts, agreements, or become part of a joint venture with various public and private entities for the purpose of:

- purchasing and selling electric power; and
- developing and/or owning facilities for the generation or transmission of electric power.

The public and private entities with whom a district may engage in such energy projects include: federal agencies; states; municipalities; public utility districts; other irrigation districts; joint operating agencies; rural electric cooperatives; mutual corporations or associations; investor-owned utilities; or associations or other legal entities composed of any combination of such entities.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Urban development is encroaching on areas served by irrigation districts and this has resulted in increasing concern about safety issues. There was a recent incident in Nevada in which an irrigation canal overflowed into a residential neighborhood and caused widespread flooding of the area. The bill contains safety-related provisions that would authorize districts to work with local governments to ensure that local land use decisions in irrigation district areas address flooding and other pertinent engineering issues.

Districts are already involved in electricity generation projects, but need explicit statutory authority to enter into contractual relationships with other public and private entities for the purpose of developing or participating in such projects. The bill provides the authority needed by the districts in order to do this.

The bill also contains important legal provisions pertaining to agreements between districts and the federal government for the transfer of operational and maintenance authority with respect to federal reclamation project works. Under the bill, districts would have some protection against claims for negligence on the part of the federal government with respect to federal projects that are operated by a district pursuant to an agreement.

Finally, the bill sets a fixed compensation rate for district directors and takes away a board's authority to set such compensation. This addresses state constitutional issues that could arise if a board were to increase its own per diem compensation rate.

(Opposed) None.

Persons Testifying: Mark Schoesler, prime sponsor; and Michael Schwisow, Washington State Water Resources Association and Irrigation District Association.

Persons Signed In To Testify But Not Testifying: None.